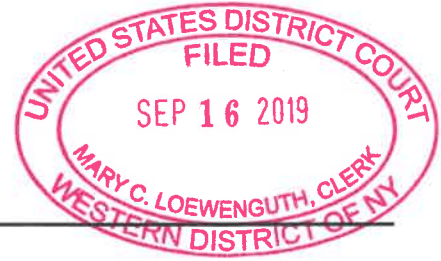


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



JEREMIAH NOLAN, JR. and
SANDRA NOLAN, Individually
and as husband & wife,

Plaintiffs,

vs.

COUNTY OF ERIE, ERIE COUNTY SHERIFF'S
DEPARTMENT, TIMOTHY B. HOWARD,
MARK WIPPERMAN, THOMAS DIINA, and
JEFFREY HARTMAN,

Defendants.

NOTICE OF REMOVAL

NYS Index No. 811352-2019

19 **CV1245** **R**
Civil Action No.

TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF NEW YORK:

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441(b) and 1446, defendants
COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT, TIMOTHY B. HOWARD,
MARK N. WIPPERMAN, THOMAS DIINA, and JEFFREY HARTMAN, hereby remove to
this Court the civil action filed in the Supreme Court of the State of New York, County of Erie,
as described below.

On September 5, 2019, plaintiffs JEREMIAH NOLAN, JR. and SANDRA NOLAN,
Individually and as husband and wife, filed a civil action against COUNTY OF ERIE, ERIE
COUNTY SHERIFF'S DEPARTMENT, TIMOTHY B. HOWARD, MARK N. WIPPERMAN,
THOMAS DIINA, and JEFFREY HARTMAN, Case Index Number: 811352/2019, in the
Supreme Court for the State of New York, County of Erie.

On September 9, 2019, plaintiffs served the Summons and Complaint in the above-
referenced state court action upon defendants. A copy of the Summons and Complaint in the

state court action are attached hereto as **Exhibit A**. Copies of the Affidavits of Service are attached as **Exhibit B**.

No further proceedings have been had in the state court action. Plaintiffs' Complaint contains a cause of action alleging violation of plaintiffs' civil rights under the Fourteenth Amendment rights under the United States Constitution.

Accordingly, this Court has original jurisdiction over the state court action under 28 U.S.C. §1331 (federal question) because it is a civil action that arises under the Constitution, laws, or treaties of the United States.

No previous application has been made for the relief requested herein.

Dated: Buffalo, New York
September 16, 2019

MICHAEL A. SIRAGUSA
Erie County Attorney



Erin E. Molisani
Assistant County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202
Telephone: (716) 858-2216
Email: Erin.Molisani@erie.gov

To: Steven M. Cohen, Esq.
HOGANWILLIG, PLLC
Attorneys for plaintiffs
2410 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600
Email: scohen@hoganwillig.com

**Index of Documents
filed in State Court prior to removal**

<u>Document</u>	<u>Date of Filing</u>
A. Summons and Complaint	September 5, 2019
B. Affidavits of Service	September 10, 2019


CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2019, I mailed the foregoing Notice of Removal, by the United States Postal Service, to the following individuals:

Steven M. Cohen, Esq.
HOGANWILLIG, PLLC
Attorneys for plaintiffs
2410 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600
Email: scohen@hoganwillig.com

Dated: Buffalo, New York
September 16, 2019

MICHAEL A. SIRAGUSA
Erie County Attorney



Erin E. Molisani
Assistant County Attorney
95 Franklin Street, Room 1634
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Email: Erin.Molisani@erie.gov

EXHIBIT A

FILED: ERIE COUNTY CLERK 09/05/2019 04:31 PM

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NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 09/05/2019

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

JEREMIAH NOLAN, JR. and
SANDRA NOLAN, Individually and as
Husband and Wife,
23 Dogwood Drive
Cheektowaga, New York 14227,

Plaintiffs,

SUMMONS

v.

Index No.:

COUNTY OF ERIE
95 Franklin Street
Buffalo, New York 14202,

ERIE COUNTY SHERIFF'S DEPARTMENT
10 Delaware Avenue
Buffalo, New York 14202,

TIMOTHY B. HOWARD
10 Delaware Avenue
Buffalo, New York 14202,

MARK N. WIPPERMAN
10 Delaware Avenue
Buffalo, New York 14202,

THOMAS DIINA
10 Delaware Avenue
Buffalo, New York 14202, and

JEFFREY HARTMAN
10 Delaware Avenue
Buffalo, New York 14202,

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your Answer or, if the Complaint is not served with a Summons, to serve a Notice of Appearance, on Plaintiffs' attorney within **twenty (20)** days after the service of this

{H2286567.1}

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HOGAN WILLIG

Attorneys at Law

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Summons, exclusive of the day of service, or within **thirty** (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

This action is brought to you in ERIE COUNTY based upon Plaintiffs' residence, the county in which the municipal Defendants are located, and the locations of the incidents.

DATED: September 5, 2019
Amherst, New York


Steven M. Cohen, Esq.
William A. Lorenz, Jr., Esq.
HoganWillig, PLLC
Attorneys for Plaintiffs
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FILED: ERIE COUNTY CLERK 09/05/2019 04:31 PM

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

JEREMIAH NOLAN, JR. and
SANDRA NOLAN, Individually and as
Husband and Wife,

Plaintiffs,

v.

COUNTY OF ERIE,
ERIE COUNTY SHERIFF'S DEPARTMENT,
TIMOTHY B. HOWARD,
MARK N. WIPPERMAN,
THOMAS DIINA, and
JEFFREY HARTMAN,

Defendants.

COMPLAINT

Index No.:

Plaintiffs JEREMIAH NOLAN, JR. and SANDRA NOLAN, Individually and as Husband and Wife, by and through their attorneys, HOGANWILLIG, PLLC, as and for their Complaint against Defendants COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT, TIMOTHY B. HOWARD, MARK N. WIPPERMAN, THOMAS DIINA, and JEFFREY HARTMAN herein, allege as follows:

1. At all relevant times hereinafter mentioned, Plaintiffs were and still are citizens of the United States of America and residents of the County of Erie and State of New York, residing at 23 Dogwood Drive, Cheektowaga, New York 14227.

2. At all relevant times hereinafter mentioned, Plaintiff Jeremiah Nolan, Jr. and Plaintiff Sandra Nolan are individuals residing in the County of Erie, State of New York, and are husband and wife. Unless further specified, references to Plaintiff in the singular shall refer solely to Plaintiff Jeremiah Nolan, Jr.

{H2284353.3}

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3. Defendant County of Erie ("Defendant Erie County") was and is a municipal corporation organized and existing under the laws of the State of New York, with principal offices located at 95 Franklin Street, City of Buffalo, County of Erie, State of New York.

4. Defendant County of Erie operated and maintained a department known as the Erie County Sheriff's Department ("Defendant Sheriff's Department"), with principal offices at 10 Delaware Avenue in City of Buffalo, County of Erie, and State of New York.

5. Defendant Erie County Sheriff's Department is an entity under the control of an elected Sheriff, as provided for in the New York State Constitution Chapter XIII § 13(a), with principal offices located at 10 Delaware Avenue, Buffalo, NY 14202

6. Defendant Timothy B. Howard ("Defendant Howard") was and still is a natural person residing in the County of Erie and State of New York, and at all times relevant herein, was the duly elected Sheriff of Erie County, New York.

7. At all times hereinafter mentioned, Defendant Howard was and is an employee of Defendant Sheriff's Department, and Defendant County of Erie.

8. At all times hereinafter mentioned, Defendant Mark N. Wipperman ("Defendant Wipperman") was and still is a natural person residing in the County of Erie and State of New York, and the duly designated Undersheriff of the County of Erie

9. At all times hereinafter mentioned, Defendant Wipperman was and is an employee of Defendant Sheriff's Department, and Defendant County of Erie.

10. Upon information and belief, at all times hereinafter mentioned, Defendant Thomas Diina ("Defendant Diina") was and still is a natural person residing in the County of Erie and State of New York.

(H2284353.3)

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11. Upon information and belief, at all times hereinafter mentioned, Defendant Diina was and is an employee of Defendant Sheriff's Department, and Defendant County of Erie.

12. Upon information and belief, at all times hereinafter mentioned, Defendant Jeffrey Hartman ("Defendant Hartman") was and still is a natural person residing in the County of Erie and State of New York.

13. Upon information and belief, at all times hereinafter mentioned, Defendant Hartman was and is an employee of Defendant Sheriff's Department, and Defendant County of Erie.

14. This action arises under New York State law and under the United States Constitution, in particular under the provisions of the Fifth and Fourteenth Amendments to the Constitution, as further made applicable to the states pursuant to 42 U.S.C. 1983.

15. At all relevant times stated herein, all activities giving rise to the instant action occurred within the State of New York.

16. Each of the acts of Defendants Howard, Wipperman, Diina, and Hartman were performed in the course of their employment with Defendant Sheriff's Department and under the color and pretense of the law, statutes, ordinances, regulations, customs and usages of the State of New York and County of Erie, and under their authority and within the scope of their employment as police officers.

17. Alternatively, each of the acts of Defendants Howard, Wipperman, Diina, and Hartman were done maliciously, intentionally, wantonly and/or negligently and performed outside the scope of their respective employments with Defendant Sheriff's Department or in excess of their authority pursuant to said employment.

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18. Plaintiff sues Defendants Howard, Wipperman, Diina, and Hartman, public employees in both their official and individual capacities.

19. On or about September 20, 2018, and within ninety (90) days after the incident herein sued upon accrued, Plaintiff served upon Municipal Defendants, through their duly authorized agents, a written Notice of Claim pursuant to Section 50-e of the General Municipal Law of the State of New York setting forth the time, place, nature, and manner in which the claim arose, followed by an Amended Notice of Claim on or about April 18, 2019. A copy of the Amended Notice of Claim is attached hereto as **Exhibit A**.

20. On or about July 5, 2019, Defendants' counsel served on Plaintiffs' attorneys a Notice of Examination Pursuant to Section 50-h of the General Municipal Law, scheduling Plaintiffs' examination for October 1, 2019. A copy of Defendants' Notice is attached hereto as **Exhibit B**.

21. That more than thirty (30) days have elapsed from the date the Notice of Claim was served and, at the time of this Complaint, Defendants have made no offers to settle this claim.

22. This action is being commenced within one (1) year and ninety (90) days from the date the claims based upon New York State law accrued.

23. Venue is proper in Erie County based upon Plaintiff's residence and the locations of the incidents.

24. That New York State Supreme Court, Erie County, has subject matter jurisdiction over Defendants.

25. That the amount in controversy exceeds the jurisdictional amount of New York's lower courts and that this is a proper forum for this matter.

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FACTS PERTAINING TO ALL CLAIMS

26. On or about May 27, 2018, Plaintiff Jeremiah Nolan, Jr. ("Plaintiff") was lawfully present and working on Defendant Sheriff Department's facility at Erie County Medical Center.

27. Upon information and belief, on or about May 27, 2018, Plaintiff, during the course of his employment, found a magazine pouch in the desk drawer of Defendant Sheriff Department's office, located on the ninth floor of Erie County Medical Center ("ECMC Office") and, based on written directives detailed in said ECMC Office, Plaintiff moved the magazine pouch to the top of a gun box in said ECMC Office.

28. On or about June 2, 2018, Plaintiff was informed by his union representative that there was an allegation that Plaintiff stole an ammunition magazine, and not just a magazine pouch, from the ECMC Office.

29. On or about June 7, 2018, Plaintiff received a call from an agent and/or employee of Defendant Erie County and/or Defendant Sheriff's Department directing Plaintiff to report to the Captain's Office of Defendant Sheriff's Department.

30. On or about June 8, 2018, as directed, Plaintiff met with Defendant Hartman and was given the option to either resign from the employment of Defendant Sheriff's Department or criminal charges would be filed against him and he would be arrested that day.

31. Plaintiff attempted to explain the circumstances surrounding the accusation, explained it was a magazine pouch without a magazine, where he put it and why, and Defendants refused to listen.

(H2284353.3)

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32. On or about the same day, June 8, 2018, Plaintiff received a letter from Defendant Sheriff's Department, signed by Defendants Diina and Hartman, informing him that he was on administrative leave without pay and was ordered to home confinement.

33. The order of home confinement was improper, unlawful and without legal justification.

34. Plaintiff was improperly and without legal justification confined to his home from June 8, 2018 through June 14, 2018.

35. All attempts by Plaintiff to explain the facts of the situation, and the errors and legal insufficiencies of and committed by Defendants were futile.

36. On or about June 22, 2018, Plaintiff's employment with Defendant Sheriff's Department was, as a result of an intentionally deficient and improper and negligent investigation, wrongfully terminated by Defendants Wipperman, Diina and Hartman, in their official capacities and by Defendants County of Erie, and Erie County Sheriff's Department.

37. As a result of the foregoing, Plaintiff had night terrors, increasing in frequency and intensity. Plaintiff's symptoms included: feelings of paranoia, duress, chest pains, trouble breathing, severe sweating, and disorientation upon waking up.

38. Plaintiff's night terrors consisted of employees from work, Plaintiff's superiors involved with this incident, hunting and harming him, always resulting in severe injury or near death to Plaintiff.

39. On or about June 26, 2018, Plaintiff was arrested and charged with Petit Larceny, a Class-A misdemeanor, under Penal Law 155.25.

40. As a career law enforcement officer, the charge, if sustained, would forever be an impediment to future employment as a police officer.

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41. On or about June 26, 2018, Defendant Howard published and/or released the following defamatory statement to various press and media outlets regarding Plaintiff, "I cannot understand how a sworn officer could take another officer's lifeline—the magazines for his duty gun. It was evident that his misconduct warranted his termination."

42. On or about December 17, 2018, after intense criminal proceedings culminating in an exhausting and expensive trial, Plaintiff was fully acquitted of the aforementioned charges by the Honorable Craig D. Hannah, Chief Judge of Buffalo City Court.

43. On or about December 22, 2018, following the verdict of acquittal, Plaintiff was advised he would be reinstated by Defendant Sheriff's Department.

44. Upon reinstatement, Plaintiff was advised by Defendants and his Union that he was entitled to full back payment and wages during the time of his wrongful termination. To date, Plaintiff has not been provided with the payment of said back payment and/or wages.

45. On or about March 26, 2019, Plaintiff returned to work.

46. Upon returning to work, Plaintiff experienced hostility and retaliation from agents and/or employees of all Defendants herein.

47. The stress of the negative publicity, termination, hostility and retaliation by Defendants against Plaintiff Jeremiah Nolan, Jr. affected both Plaintiffs profoundly and caused great stress to Sandra Nolan and Jeremiah Nolan, Jr.

48. Plaintiff has a history of asserting his rights and filing grievances through proper channels against the Defendants herein.

49. Plaintiff has a history of seeking legal redress against Defendants for conduct Plaintiff deemed illegal or wrong. Defendants have been resentful of Plaintiff for seeking such redress.

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AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS:
WRONGFUL TERMINATION

50. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "49" with the same force and effect as if more fully set forth herein.

51. On or about June 22, 2018, Plaintiff's employment with Defendant Sheriff's Department was, as a result of an improper and negligent investigation, wrongfully terminated by all defendants herein.

52. On or about December 22, 2018, Plaintiff was reinstated by Defendant Sheriff's Department and was entitled to the payment of back payment and wages of which Plaintiff was deprived during the time of his wrongful termination.

53. To date, Plaintiff has not been provided with the payment of back payment and wages.

54. As a result of the foregoing wrongful termination, Plaintiffs have been financially injured and damaged, and were subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS:
ADMINISTRATIVE NEGLIGENCE

55. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "54" with the same force and effect as if more fully set forth herein.

56. Defendants individually and through their agents, servants, and/or employees, failed to use due care to conduct a proper investigation, which led to a negligent investigation and false charges being brought against Plaintiff Jeremiah Nolan, Jr.

57. The negligent investigation was a proximate cause of the wrongful termination of Plaintiff.

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58. The negligent investigation led to Plaintiff being arrested and forced to appear in a court of law for a crime he did not commit and was in fact acquitted of.

59. As a result of the foregoing, Plaintiffs have been financially injured and damaged, and were subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS:
DEFAMATION PER SE

60. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "59" with the same force and effect as if more fully set forth herein.

61. On or about June 26, 2018, Defendant Howard released the following defamatory statement to various press and media outlets regarding Plaintiff Jeremiah, "I cannot understand how a sworn officer could take another officer's lifeline—magazines for his duty gun. It was evident that his misconduct warranted his termination."

62. On or about June 26, 2018, based on the statement of Defendant Howard, a news outlet released an article titled, "What one Erie County Sheriff's deputy did that got him arrested and fired," referring to Plaintiff.

63. The article contained Defendant Howard's statement regarding Plaintiff, "I cannot understand how a sworn officer could take another officer's lifeline—magazines for his duty gun. It was evident that his misconduct warranted his termination."

64. Defendant Howard falsely accused Plaintiff of committing crimes and/or conduct involving moral turpitude.

65. Defendant Howard's statements were false when made.

66. Defendant Howard's false statements were made with malice.

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67. Defendant Howard knew or should have known the statements were false or should have had serious doubts about their truth, and published the statements anyway, with a reckless disregard of the probable falsity.

68. As a result of the Plaintiffs' false and defamatory statements, Plaintiffs have incurred losses, damages, and special damages, including out of pocket pecuniary losses, all of which exceed the jurisdictional limits of all lower courts.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS:
HARASSMENT

69. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "68" with the same force and effect as if more fully set forth herein.

70. Upon reinstatement as a police officer, Plaintiff received from agents of all Defendants herein, threatening comments, harassing behavior, denial to use restroom, etc, which rendered Plaintiff Jeremiah Nolan, Jr. deeply emotionally distraught.

71. On or about February 13, 2019, although Plaintiff submitted the required doctor's notes, Plaintiff's extended sick leave was abruptly stopped without just cause.

72. On or about March 25, 2019, an agent of Defendants', Lieutenant Adamek said, "Looks like you burnt too many bridges around here" and caused and forced Plaintiff to work an additional eight hour shift, contrary to the overtime restrictions Plaintiff had from FMLA, at the instance of Defendants herein.

73. On or about March 25, 2019, Lieutenant Adamek wrote up Plaintiff for leaving his post under circumstances which didn't warrant that sanction, all at the instance of Defendants herein.

74. Upon information and belief, at the instance of Defendants herein, Plaintiff was targeted for leaving his post, while other employees were not, for conduct that was part of the

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routine pattern and practice of officers which had never constituted the offense of leaving one's post.

75. On or about March 28, 2019, Deputy Marc Scarpace verbally assaulted Plaintiff in the men's locker room at ECHC. The verbal assault consisted of Deputy Marc Scarpace telling Plaintiff to "fuck yourself" in front of other people.

76. Upon information and belief, Deputy Scarpace's conduct was at the behest and instance of the Defendants herein.

77. On or about March 28, 2019, Plaintiff reported the incident and filled out a complaint form against Deputy Scarpace that Defendants refused to process or act on.

78. On or about April 5, 2019, Plaintiff was directed to return his hard copy binder, and given a CD in place of his Policy and Procedures Hard Copy Binder ("P&P"). Plaintiff was the only deputy asked to turn in their hardcopy P&P.

79. On or about April 23, 2019, Plaintiff was written up for exhaustion of his FMLA time despite having eight hours remaining.

80. On or about May 30, 2019, during a meeting with Professional Standards Division ("PSD"), Chief Union Steward Deputy Mark Geary stated that the behaviors inflicted upon Plaintiff are an outright and blatant "witchhunt."

81. As a result of the foregoing, Plaintiffs have been injured and damaged, and were subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS: VIOLATION
OF PLAINTIFFS' CIVIL RIGHTS**

82. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "81" with the same force and effect as if more fully set forth herein.

{H2284353.3}

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83. Plaintiff's employment with Defendant Sheriff's Department was, as a result of an improper deficient, intentionally non-professional, non-thorough and negligent investigation, wrongfully terminated by Defendants Sheriff's Department, County of Erie, Wipperman, Diina, and Hartman, in direct violation of Plaintiff's civil rights under the United States Constitution.

84. Defendants County of Erie and Erie County Sheriff's Department had a custom, policy and practice of retaliating against officers who sought legal redress against the Defendants herein.

85. The aforesaid conduct employed during the harassment, termination of Plaintiff's employment, and arrest was in direct violation of Plaintiff's civil rights under the Fourteenth Amendment of the United States Constitution to be secure against deprivations of liberty without due process of law, and constituted Tortious Conduct under New York State Law.

86. The aforesaid conduct of Defendants was pursuant to a policy and custom of Defendants County of Erie and Erie County Sheriff's Department.

87. As a result of the foregoing, Plaintiffs have been injured and damaged, and was subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

88. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "87" with the same force and effect as if more fully set forth herein.

89. Defendants' actions in conducting an improper and negligent and deficient investigation leading to the termination of Plaintiff's job, arrest, and harassment of and retaliation against Plaintiff were outrageous, shocking and exceeded all reasonable bounds of decency.

(H2284353.3)

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90. That the aforesaid actions of the individual Defendants were taken with the intention of causing Plaintiff severe emotional distress such that Plaintiff would resign his position.

91. The aforesaid actions of the individual Defendants, and their agents identified herein, were performed in the furtherance of their respective employment with Defendant Sheriff's Department.

92. As a result of the foregoing, Plaintiffs have been injured and damaged, and were subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

93. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "92" with the same force and effect as if more fully set forth herein.

94. That Defendants had a duty to not unlawfully interfere with Plaintiff's employment and liberty.

95. That Defendants breached that duty.

96. The Defendants followed the policies and procedures of Defendants County of Erie and Erie County Sheriff's Department which tolerates such tortious conduct in instances where an unpopular or disliked officer, by virtue of his having filed claims against Defendants, is the target.

97. The aforesaid actions of the individual Defendants caused Plaintiffs severe emotional distress.

(H2284353.3)

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HOGANWILLIG

Attorneys at Law

2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

98. The aforesaid actions of the individual Defendants caused Plaintiffs to fear for their physical safety.

99. The aforesaid incidents were caused wholly and solely as a consequence of the carelessness of the individual Defendants and without any negligence on the part of Plaintiff contributing thereto.

100. The aforesaid actions of the individual Defendants were performed in the furtherance of their respective employment with Defendant Sheriff's Department.

101. Alternatively, the conduct of Defendants Howard, Wipperman, Diina and Hartman was done on an individual basis.

102. As a result of the foregoing, Plaintiffs have been injured and damaged, and were subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

AS AND FOR AN EIGHTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS: LOSS OF CONSORTIUM

103. Plaintiffs repeat and re-allege each and every allegation of this Complaint numbered "1" through "102" with the same force and effect as if more fully set forth herein.

104. Now, and at all relevant times indicated above, Plaintiff Sandra Nolan was and is the lawful wife of Plaintiff Jeremiah Nolan, Jr.

105. As the lawful wife of Plaintiff Jeremiah Nolan, Jr., Plaintiff Sandra Nolan is entitled to the society, affection, companionship, aid, and consortium of her husband, Jeremiah Nolan, Jr.

106. As a result of the negligence and deprivation of liberty by Defendants in conjunction with the wrongful termination inflicted upon Plaintiff Jeremiah Nolan, Jr., Plaintiff

FILED: ERIE COUNTY CLERK 09/05/2019 04:31 PM

INDEX NO. 811352/2019

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 09/05/2019

Sandra Nolan lost the society, affection, companionship, aid and consortium of her husband that she enjoyed prior to the acts of Defendants.

107. As a result of the foregoing, Plaintiffs have been injured and damaged, and was subjected to humiliation and embarrassment, all to Plaintiffs' damage in a sum exceeding the jurisdictional limits of all lower courts.

WHEREFORE, Plaintiffs demand judgment in an amount to be determined upon the trial of this action, together with the costs and disbursements of this action, including attorneys' fees, and for such other and further relief to Plaintiffs as this Court may deem just and proper.

DATED: September 5th, 2019
Amherst, New York



Steven M. Cohen, Esq.
William A. Lorenz, Jr., Esq.
HoganWillig, PLLC
Attorneys for Plaintiffs
2410 North Forest Road, Suite 301
Amherst, New York 14068
(716) 636-7600
scohen@hoganwillig.com

EXHIBIT B

FILED: ERIE COUNTY CLERK 09/10/2019 12:09 PM

INDEX NO. 811352/2019

NYSCEF DOC. NO. 4

RECEIVED NYSCEF: 09/10/2019

Affidavit of Service
Blank County

225 B

Published by David F. Walderson, C. Inc.
Buffalo, New York

SUPREME Court County of Erie
Jeremiah Nolan, Jr. and Sandra Nolan
 Individually and as Husband and Wife
 Plaintiff,

**AFFIDAVIT OF SERVICE
ON AN INDIVIDUAL
OR CORPORATION**

County of Erie

Erie County Sheriff's Department
ET AL
 Defendant.

Index No. 811352/2019

State of New York
 County of Erie

ss.

Michael Meadows being duly sworn, deposes and says that he is over
 18 years of age and not a party to this action; that on the 9th day of September 2019
 at approximately PM 11:25 AM at 10 Delaware Avenue Buffalo
 New York deponent served the annexed Summons Complaint Timothy B. Howard
 the defendant named herein, in the following manner: NOTICE OF E-FILEING

- ☐ Individual By delivering to and leaving with said _____ personally
 a true copy thereof, and that he knew the person so served to be _____
 the person mentioned and described in said _____
- ☐ Corporation By delivering to and leaving with _____ and he knew
 the person so served to be _____ of defendant corporation
- ☒ Responsible Person By delivering to and leaving with Mickie Pawewski Assistant to the Sheriff a
 true copy thereof, a person of suitable age and discretion. Said premises being the defendants (dwelling
 place) (usual place of abode) (place of business) within the State of New York.
- ☐ Substituted Service By affixing a true copy thereof to the door of said premises the same being the defendants (dwelling place)
 (usual place of abode) (place of business) within the State of New York.
- ☐ Mail Deponent also served a copy of the _____ by depositing a true copy of the same in a post-
 paid, properly addressed envelope in an official depository under the exclusive care and custody of the United
 States post office in the State of New York
- ☐ Previous Attempt(s) Deponent had previously attempted to serve the above-named defendant(s) pursuant to CPLR Sec. 308
 at _____ on the _____ day of _____ PM _____ AM
 at _____ on the _____ day of _____ PM _____ AM
 at _____ on the _____ day of _____ PM _____ AM
- ☒ Description The person served would be described as approximately 55 years of age 120 lbs.
5 ft. 5 in. male ☒ female Blonde hair White skin
Hazel eyes other Wore Glasses
- ☒ Military To my best knowledge, information and belief the said defendant at the time of service was not engaged in
 military service of the United States.

Sworn to before me this 10th day ofSEPTEMBER 2019

Stephanie M. Sweeney
 Notary Public in Commission of Deeds

Michael Meadows

STEPHANIE M. SWEENEY
 Notary Public, State of New York
 Qualified in Niagara County
 Commission Expires 3/22/2021

FILED: ERIE COUNTY CLERK 09/10/2019 12:09 PM

NYSCEF DOC. NO. 5

INDEX NO. 811352/2019

RECEIVED NYSCEF: 09/10/2019

Affidavit of Service
Blank County

225 B

Published by David F. Williamson, Co. Sec.
Buffalo, New YorkSUPREME COURT COUNTY OF ERIEJEREMIAH NOLAN, Jr. and SANDRA NOLON
Individually, and as Husband and Wife

Plaintiff,

AFFIDAVIT OF SERVICE
ON AN INDIVIDUAL
OR CORPORATION

-VS-

COUNTY OF ERIE
ERIE COUNTY SHERIFF'S DEPARTMENT
ET AL

Defendant.

Index NO. 811352/2019

State of New York
County of ERIE

ss.

MICHAEL MEADOWS being duly sworn, deposes and says that he is over
18 years of age and not a party to this action; that on the 9th day of SEPTEMBER 2019
at approximately PM 11:25 AM at 10 DELAWARE AVENUE BUFFALO
New York deponent served the annexed SUMMONS COMPLAINT on ERIE COUNTY SHERIFF'S
the defendant named herein, in the following manner: NOTICE OF E-FILE DEPARTMENT☐ IndividualBy delivering to and leaving with said _____ personally
a true copy thereof, and that he knew the person so served to be _____
the person mentioned and described in said _____☒ CorporationBy delivering to and leaving with MICKIE PAWENSKI and he knew
the person so served to be ASSISTANT TO THE SHERIFF of defendant corporation☐ Responsible
PersonBy delivering to and leaving with _____ a
true copy thereof, a person of suitable age and discretion. Said premises being the defendants (dwelling
place) (usual place of abode) (place of business) within the State of New York.☐ Substituted
ServiceBy affixing a true copy thereof to the door of said premises the same being the defendants (dwelling place)
(usual place of abode) (place of business) within the State of New York.☐ MailDeponent also served a copy of the _____ by depositing a true copy of the same in a post-
paid, properly addressed envelope in an official depository under the exclusive care and custody of the United
States post office in the State of New York☐ Previous
Attempt(s)Deponent had previously attempted to serve the above-named defendant(s) pursuant to CPLR Sec. 308
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM☒ DescriptionThe person served would be described as approximately 55 years of age 125 lbs.
5 ft. 5 in. male XX female BROWN hair WHITE skin
Hazel eyes other WORN GLASSES☒ MilitaryTo my best knowledge, information and belief the said defendant at the time of service was not engaged in
military service of the United States.Sworn to before me this 10th day of
SEPTEMBER 2019Stephanie M. Sweeney
Notary Public/Commissioner of DeedsSTEPHANIE M. SWEENEY
Notary Public, State of New York
Qualified in Niagara County
Commission Expires 3/22/2021Michael Meadows

FILED: ERIE COUNTY CLERK 09/10/2019 12:09 PM

NYSCEF DOC. NO. 6

INDEX NO. 811352/2019

RECEIVED NYSCEF: 09/10/2019

Affidavit of Service
Blank County

225 B

Published by David F. Williamson, Co., Inc.
Buffalo, New YorkSUPREME Court COUNTY OF ERIETEREMIAH NOLAN, Jr. and SANDRA NOLON
Individually, and as Husband and Wife
Plaintiff,AFFIDAVIT OF SERVICE
ON AN INDIVIDUAL
OR CORPORATIONCOUNTY OF ERIE
ERIE COUNTY SHERIFF'S DEPARTMENT
ET AL
Defendant.

Index No. 811352/2019

State of New York
County of ERIE

ss.

MICHAEL MEADOWS being duly sworn, deposes and says that he is over
18 years of age and not a party to this action; that on the 7th day of SEPTEMBER 2019
at approximately PM 11:16 AM at 75 FRANKLIN STREET, BUFFALO
New York deponent served the annexed SUMMONS COMPLAINT ON COUNTY OF ERIE
the defendant named herein, in the following manner: NOTICE OF E-FILEING☐ IndividualBy delivering to and leaving with said _____ personally
a true copy thereof, and that he knew the person so served to be _____
the person mentioned and described in said _____☒ CorporationBy delivering to and leaving with ERIN E. MOLISANI and he knew
the person so served to be ASSISTANT COUNTY ATTORNEY of defendant corporation☐ Responsible
PersonBy delivering to and leaving with _____ a
true copy thereof, a person of suitable age and discretion. Said premises being the defendants (dwelling
place) (usual place of abode) (place of business) within the State of New York.☐ Substituted
ServiceBy affixing a true copy thereof to the door of said premises the same being the defendants (dwelling place)
(usual place of abode) (place of business) within the State of New York.☐ MailDeponent also served a copy of the _____ by depositing a true copy of the same in a post-
paid, properly addressed envelope in an official depository under the exclusive care and custody of the United
States post office in the State of New York☐ Previous
Attempt(s)Deponent had previously attempted to serve the above-named defendant(s) pursuant to CPLR Sec. 308
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM☒ DescriptionThe person served would be described as approximately 30 years of age 140 lbs.
5 ft. 5 in. male X female BROWN hair WHITE skin
HAZEL eyes other _____☒ MilitaryTo my best knowledge, information and belief the said defendant at the time of service was not engaged in
military service of the United States.Sworn to before me this 10th day of
SEPTEMBER 2019Stephanie M. Sweeney
Notary Public in Commission of DeedsSTEPHANIE M. SWEENEY
Notary Public, State of New York
Qualified in Niagara County
Commission Expires 3/22/2021Michael Meadows

FILED: ERIE COUNTY CLERK 09/10/2019 12:09 PM

INDEX NO. 811352/2019

NYSCEF DOC. NO. 7

RECEIVED NYSCEF: 09/10/2019

Affidavit of Service
Blank County

225 B

Published by David F. Watson, Clerk
Buffalo, New YorkSUPREME COURT COUNTY OF ERIE
JEREMIAH NOLAN, JR. and SANDRA NOLON
Individually, and as Husband and Wife
Plaintiff,AFFIDAVIT OF SERVICE
ON AN INDIVIDUAL
OR CORPORATIONCOUNTY OF ERIE
ERIE COUNTY SHERIFF'S DEPARTMENT
ET AL
Defendant.

Index No. 811352/2019

State of New York
County of ERIE

ss.

MICHAEL MEADOWS being duly sworn, deposes and says that he is over
18 years of age and not a party to this action; that on the 9th day of SEPTEMBER 2019
at approximately PM 11:25 AM at 10 DELAWARE AVENUE BUFFALO
New York deponent served the annexed Summons Complaint on MARK N. WICPERMAN
the defendant named herein, in the following manner: NOTICE OF E-FILED☐ IndividualBy delivering to and leaving with said _____ personally
a true copy thereof, and that he knew the person so served to be _____
the person mentioned and described in said _____☐ CorporationBy delivering to and leaving with _____ and he knew
the person so served to be _____ of defendant corporation☒ Responsible
PersonBy delivering to and leaving with MICKIE PAWENSKI - ASSISTANT TO THE SHERIFF a
true copy thereof, a person of suitable age and discretion. Said premises being the defendants (dwelling
place) (usual place of abode) (place of business) within the State of New York.☐ Substituted
ServiceBy affixing a true copy thereof to the door of said premises the same being the defendants (dwelling place)
(usual place of abode) (place of business) within the State of New York.☐ MailDeponent also served a copy of the _____ by depositing a true copy of the same in a post-
paid, properly addressed envelope in an official depository under the exclusive care and custody of the United
States post office in the State of New York☐ Previous
Attempt(s)Deponent had previously attempted to serve the above-named defendant(s) pursuant to CPLR Sec. 308
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM☒ DescriptionThe person served would be described as approximately 55 years of age 120 lbs.
5 ft. 5 in. male X female BROWN hair WHITE skin
Hazel eyes other WORE GLASSES☒ MilitaryTo my best knowledge, information and belief the said defendant at the time of service was not engaged in
military service of the United States.Sworn to before me this 10th day of
SEPTEMBER 2019Stephanie M. Sweeney
Notary Public in Commission of DeedsMichael MeadowsSTEPHANIE M. SWEENEY
Notary Public, State of New York
Qualified in Niagara County
Commission Expires 3/22/2021

FILED: ERIE COUNTY CLERK 09/10/2019 12:09 PM

INDEX NO. 811352/2019

NYSCEF DOC. NO. 8

RECEIVED NYSCEF: 09/10/2019

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

JEREMIAH NOLAN, JR. and
SANDRA NOLAN, Individually and as
Husband and Wife,

Plaintiffs,

**AFFIDAVIT OF SERVICE
BY MAIL**

v.

Index No.: 811352/2019

COUNTY OF ERIE,
ERIE COUNTY SHERIFF'S DEPARTMENT,
TIMOTHY B. HOWARD,
MARK N. WIPPERMAN,
THOMAS DIINA, and
JEFFREY HARTMAN,

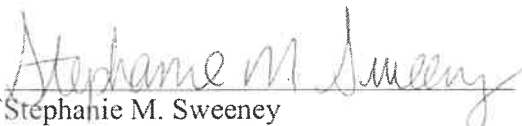
Defendants.

Stephanie M. Sweeney, being duly sworn deposes and says, deponent is not a party to the action, is over 18 years of age and resides in Niagara County, New York. On September 10, 2019, deponent mailed a copy of the Notice of Electronic Filing, Summons and Complaint to:

TIMOTHY B. HOWARD
10 Delaware Avenue
Buffalo, New York 14202,

MARK N. WIPPERMAN
10 Delaware Avenue
Buffalo, New York 14202,

by depositing a true copy of the same in postpaid properly addressed plain wrapper bearing the legend "personal and confidential", and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, by first class mail, and in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.


Stephanie M. Sweeney

Sworn to before me on the 10th day
of September, 2019.


Notary Public

Patricia M. Hkovich
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Aug. 3, 2022

HOGANWILLIG
Attorneys at Law

2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

{112385104.1}

FILED: ERIE COUNTY CLERK 09/11/2019 11:11 AM

NYSCEF DOC. NO. 9

INDEX NO. 811352/2019

RECEIVED NYSCEF: 09/11/2019

Affidavit of Service
Blank County

225 B

Published by David F. Watson, Co., Inc.
Buffalo, New YorkSUPREME Court COUNTY OF ERIEJeremiah Nolan, Jr. and Sandra Nolan
Individually, and as Husband and Wife

Plaintiff,

AFFIDAVIT OF SERVICE
ON AN INDIVIDUAL
OR CORPORATIONCOUNTY OF ERIEERIE COUNTY SHERIFF'S DEPARTMENT
ET AL Defendant.

Index No. 811352/2019

State of New York
County of ERIE

ss.

MICHAEL MEADOWSbeing duly sworn, deposes and says that he is over
18 years of age and not a party to this action; that on the 9th day of SEPTEMBER 2019
at approximately PM 11:25 AM at 10 DELAWARE AVENUE BUFFALO
New York deponent served the annexed Summons COMPLAINT on THOMAS DIINA
the defendant named herein, in the following manner: NOTICE OF E-FILE☐ IndividualBy delivering to and leaving with said _____ personally
a true copy thereof, and that he knew the person so served to be _____
the person mentioned and described in said _____☐ CorporationBy delivering to and leaving with _____ and he knew
the person so served to be _____ of defendant corporation☒ Responsible
PersonBy delivering to and leaving with MICKIE PAIDENSKI - ASSISTANT TO THE SHERIFF a
true copy thereof, a person of suitable age and discretion. Said premises being the defendants (~~dwelling~~
~~place (usual place of abode)~~ (place of business) within the State of New York.☐ Substituted
ServiceBy affixing a true copy thereof to the door of said premises the same being the defendants (dwelling place)
(usual place of abode) (place of business) within the State of New York.☐ MailDeponent also served a copy of the _____ by depositing a true copy of the same in a post-
paid, properly addressed envelope in an official depository under the exclusive care and custody of the United
States post office in the State of New York☐ Previous
Attempt(s)Deponent had previously attempted to serve the above-named defendant(s) pursuant to CPLR Sec. 308
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM
at _____ on the _____ day of _____ PM _____ AM☒ DescriptionThe person served would be described as approximately 55 years of age 120 lbs.
5 ft. 6 in. male XX female BROWN hair WHITE skin
Hazel eyes other WORN GLASSES☒ MilitaryTo my best knowledge, information and belief the said defendant at the time of service was not engaged in
military service of the United States.Sworn to before me this 10th day ofSEPTEMBER 2019Stephen M. Amey
Notary Public or Commissioner of DeedsMichael MeadowsSTEPHANIE M. SWEENEY
Notary Public, State of New York
Qualified in Niagara County
Commission Expires 3/22/ 2021

FILED: ERIE COUNTY CLERK 09/11/2019 11:11 AM

INDEX NO. 811352/2019

NYSCEF DOC. NO. 11

RECEIVED NYSCEF: 09/11/2019

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

JEREMIAH NOLAN, JR. and
SANDRA NOLAN, Individually and as
Husband and Wife,

Plaintiffs,

**AFFIDAVIT OF SERVICE
BY MAIL**

v.

Index No.: 811352/2019

COUNTY OF ERIE,
ERIE COUNTY SHERIFF'S DEPARTMENT,
TIMOTHY B. HOWARD,
MARK N. WIPPERMAN,
THOMAS DIINA, and
JEFFREY HARTMAN,

Defendants.

Stephanie M. Sweeney, being duly sworn deposes and says, deponent is not a party to the action, is over 18 years of age and resides in Niagara County, New York. On September 11, 2019, deponent mailed a copy of the Notice of Electronic Filing, Summons and Complaint to:

THOMAS DIINA
10 Delaware Avenue
Buffalo, New York 14202, and

JEFFREY HARTMAN
10 Delaware Avenue
Buffalo, New York 14202,

by depositing a true copy of the same in postpaid properly addressed plain wrapper bearing the legend "personal and confidential", and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, by first class mail, and in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Stephanie M. Sweeney
Stephanie M. Sweeney

Sworn to before me on the 11th day
of September, 2019.

Notary Public

Robin H. Dunaif
Robin H. Dunaif
Notary Public State of New York
Qualified in Erie County
My Commission Expires 2/11/20

HOGANWILLIG

Attorneys at Law

2410 NORTH FOREST ROAD | SUITE 301 | AMHERST, NEW YORK 14068
Phone: 716.636.7600 | Toll Free: 800.636.5255 | Fax: 716.636.7606 | www.hoganwillig.com

{112386525.1}

FILED: ERIE COUNTY CLERK 09/11/2019 11:11 AM

INDEX NO. 811352/2019

NYSCEF DOC. NO. 10

RECEIVED NYSCEF: 09/11/2019

Affidavit of Service
Blank County

225 B

Published by David F. Williamson, Co., Inc.
Buffalo, New York

SUPREME COURT COUNTY OF ERIE
JEREMIAH NOLAN, Jr. and SANDRA NOLAN
 Individually, and as Husband and Wife
 Plaintiff,

AFFIDAVIT OF SERVICE
 ON AN INDIVIDUAL
 OR CORPORATION

— US —
COUNTY OF ERIE
ERIE COUNTY SHERIFF'S DEPARTMENT
ET AL
 Defendant.

Index NO. 811352/2019

State of New York
 County of ERIE

SE.

MICHAEL MEADOWS being duly sworn, deposes and says that he is over
 18 years of age and not a party to this action; that on the 9th day of SEPTEMBER 2019
 at approximately PM 11:25 AM at 10 DELAWARE AVENUE, BUFFALO
 New York deponent served the annexed Summons Complaint on JEFFREY HARTMAN
 the defendant named herein, in the following manner: NOTICE OF E-FILE

☐ Individual

By delivering to and leaving with said _____ personally
 a true copy thereof, and that he knew the person so served to be _____
 the person mentioned and described in said _____

☐ Corporation

By delivering to and leaving with _____ and he knew
 the person so served to be _____ of defendant corporation

☒ Responsible
Person

By delivering to and leaving with MICKIE PAWENSKI - ASSISTANT TO THE SHERIFF a
 true copy thereof, a person of suitable age and discretion. Said premises being the defendants (dwelling
 place) (usual place of abode) (place of business) within the State of New York.

☐ Substituted
Service

By affixing a true copy thereof to the door of said premises the same being the defendants (dwelling place)
 (usual place of abode) (place of business) within the State of New York.

☐ Mail

Deponent also served a copy of the _____ by depositing a true copy of the same in a post-
 paid, properly addressed envelope in an official depository under the exclusive care and custody of the United
 States post office in the State of New York

☐ Previous
Attempt(s)

Deponent had previously attempted to serve the above-named defendant(s) pursuant to CPLR Sec. 308
 at _____ on the _____ day of _____ PM _____ AM
 at _____ on the _____ day of _____ PM _____ AM
 at _____ on the _____ day of _____ PM _____ AM

☒ Description

The person served would be described as approximately 55 years of age 120 lbs.
5 ft. 6 in. male X female BLONDE hair WHITE skin
HAZEL eyes other WORE GLASSES

☒ Military

To my best knowledge, information and belief the said defendant at the time of service was not engaged in
 military service of the United States.

Sworn to before me this 11th day ofSEPTEMBER 2019

Stephanie M. Sweeney
 Notary Public in Commissioner of Deeds

Michael Meadows

STEPHANIE M. SWEENEY
 Notary Public, State of New York
 Qualified in Niagara County
 Commission Expires 3/22/2020 of 1

CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2019, I mailed the foregoing Notice of Removal, by the United States Postal Service, to the following individuals:

Steven M. Cohen, Esq.
HOGANWILLIG, PLLC
Attorneys for plaintiffs
2410 North Forest Road, Suite 301
Amherst, New York 14068
Telephone: (716) 636-7600
Email: scohen@hoganwillig.com

Dated: Buffalo, New York
September 16, 2019

MICHAEL A. SIRAGUSA
Erie County Attorney

s/ Erin E. Molisani
Erin E. Molisani
Assistant County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202
Telephone: (716) 858-2216
Email: Erin.Molisani@erie.gov

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

19

CV1245

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
JEREMIAH NOLAN, JR. and
SANDRA NOLAN, Individually
and as husband & wife

(b) County of Residence of First Listed Plaintiff Erie
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Steve M. Cohen, Esq. HOGAN WILLIG, PLLC
2410 North Forest Rd., Suite 301
Amherst, NY 14068 / (716) 636-7600

DEFENDANTS
COUNTY OF ERIE, ERIE COUNTY SHERIFF'S DEPARTMENT,
TIMOTHY B. HOWARD, MARK WIPPERMAN, THOMAS DIINA, and
JEFFREY HARTMAN

County of Residence of First Listed Defendant ERIE
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Erin E. Molisani, ERIE COUNTY ATTORNEY'S OFFICE
95 Franklin St., Rm. 1634
Buffalo, NY 14202 / (716) 858-2216

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 USC Sections 1441 (B) and 1446

Brief description of cause:
14th amendment claim and others following Plaintiff's termination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

9/16/19

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE